

**HUMAN SERVICES DEPARTMENT[441]**

**Adopted and Filed Emergency**

**Rule making related to state supplementary assistance**

The Human Services Department hereby amends Chapter 51, “Eligibility,” and Chapter 52, “Payment,” Iowa Administrative Code.

*Legal Authority for Rule Making*

This rule making is adopted under the authority provided in Iowa Code section 249A.4; 20 CFR §§416.2095 and 416.2096; and 2017 Iowa Acts, House File 653, sections 53 and 70.

*State or Federal Law Implemented*

This rule making implements, in whole or in part, Iowa Code section 249A.4; 20 CFR §§416.2095 and 416.2096; and 2017 Iowa Acts, House File 653, sections 53 and 70.

*Purpose and Summary*

These amendments strike the specific assistance standard amounts for State Supplementary Assistance and amend the assistance standards definition to include the legal citation to pass along the cost-of-living adjustments (COLAs) in accordance with 20 CFR §§416.2095 and 416.2096. COLA changes are effective January 1 each year.

*Reason for Adoption of Rule Making Without  
Prior Notice and Opportunity for Public Participation*

Pursuant to Iowa Code section 17A.4(3), the Department finds that notice and public participation are unnecessary or impractical because the amendments increase payment amounts and income limits under the State Supplementary Assistance program in accordance with cost-of-living increases in supplemental security income (SSI) benefits, as required to meet federal pass-along requirements.

In compliance with Iowa Code section 17A.4(3)“a,” the Administrative Rules Review Committee at its December 7, 2018, meeting reviewed the Department’s determination and this rule making and approved the emergency adoption.

*Reason for Waiver of Normal Effective Date*

Pursuant to Iowa Code section 17A.5(2)“b”(1)(b), the Department also finds that the normal effective date of this rule making, 35 days after publication, should be waived and the rule making made effective on January 1, 2019, because the amendments confer a benefit on the public or remove a restriction on the public. The amendments increase payment amounts and income limits under the State Supplementary Assistance program.

*Adoption of Rule Making*

This rule making was adopted by the Council on Human Services on December 12, 2018.

*Concurrent Publication of Notice of Intended Action*

In addition to its adoption on an emergency basis, this rule making has been initiated through the normal rule-making process and is published herein under Notice of Intended Action as **ARC 4219C** to allow for public comment.

### *Fiscal Impact*

The residential care facility (RCF) and family-life home personal needs allowances are increasing by \$4 per month from \$99 to \$103 per month. The base personal needs allowance (PNA) is increased due to the 2.8 percent COLA this year along with an increase in the average monthly Medicaid copayment per client per month for RCF recipients. (The average Medicaid copayment per client per month is added to the base PNA to determine the final monthly PNA.) The average copayment per client per month for RCF recipients for August 2017 through July 2018 was \$1.71. This is an increase of \$0.81 from last year's average of \$0.90. For family-life home recipients, the \$17 increase in the payment to the family-life home is offset by the \$4 increase in the personal needs deduction and a \$21 increase in the SSI payment. The recipient will pay up to \$17 more due to the \$21 increase in income and a \$4 increase in the personal needs allowance. For RCF assistance recipients, the maximum total payment to the facility will increase up to \$20.77 per month per recipient  $[(\$31.27 - \$30.60) \times 31 \text{ days}]$ . RCF costs are shared by the state and the RCF recipient. Any potential increased costs to the state are expected to be more than offset by declining RCF caseloads in SFY 2019 and SFY 2020. For recipients of dependent-person assistance, the maximum monthly payment is increasing by \$11, from \$387 to \$398. Each dependent-person assistance recipient will receive up to an \$11 increase, resulting in an anticipated increase in state expenditures. However, this increase will be offset by the anticipated declining number of recipients, and most recipients do not qualify for the maximum payment.

### *Jobs Impact*

After analysis and review of this rule making, no impact on jobs has been found.

### *Waivers*

Any person who believes that the application of the discretionary provisions of this rule making would result in hardship or injustice to that person may petition the Department for a waiver of the discretionary provisions, if any, pursuant to rule 441—1.8(17A,217).

### *Review by Administrative Rules Review Committee*

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rule making by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rule making at its [regular monthly meeting](#) or at a special meeting. The Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

### *Effective Date*

This rule making became effective on January 1, 2019.

The following rule-making actions are adopted:

ITEM 1. Amend subrule 51.4(1) as follows:

**51.4(1) Income.** Income of a dependent relative shall be less than ~~\$387 per month~~ the amount established by the department based on assistance standards as provided in rule 441—52.1(249). When the dependent's income is from earnings, an exemption of \$65 shall be allowed to cover work expense.

ITEM 2. Amend rule 441—51.7(249) as follows:

**441—51.7(249) Income from providing room and board.** In determining ~~profit~~ income from furnishing room and board or providing family-life home care, ~~\$387 per month~~ the amount established by the department based on assistance standards as provided in rule 441—52.1(249) shall be deducted to cover the cost, and the remaining amount shall be treated as earned income.

This rule is intended to implement Iowa Code sections 249.3 and 249.4.

ITEM 3. Amend rule 441—52.1(249), introductory paragraph, as follows:

**441—52.1(249) Assistance standards.** Assistance standards are the amounts of money allowed on a monthly basis to recipients of state supplementary assistance in determining financial need and the amount of assistance granted. Current assistance standards shall be published on the department's website. Assistance standards shall be adjusted annually to reflect cost-of-living adjustments (COLA) adopted by the Social Security Administration, in accordance with 20 CFR §§416.2095 and 416.2096. Adjustments to the assistance standards based on COLA are effective January 1 of each year.

ITEM 4. Amend subrule 52.1(1) as follows:

**52.1(1) Protective living arrangement.** ~~The following assistance~~ Assistance standards ~~have been~~ shall be established by the department as provided in rule 441—52.1(249) for state supplementary assistance care and personal allowances for persons living in a family-life home certified under rules in 441—Chapter 111.

\$813	Care allowance
\$ 99	Personal allowance
<hr/>	
\$912	Total

ITEM 5. Amend subrule 52.1(2) as follows:

**52.1(2) Dependent relative.** ~~The following assistance~~ Assistance standards ~~for the following~~ categories ~~have been~~ shall be established by the department as provided in rule 441—52.1(249) for state supplementary assistance for dependent relatives residing in a recipient's home.

- a. Aged or disabled client and a dependent relative..... \$1,137.
- b. Aged or disabled client, eligible spouse, and a dependent relative..... \$1,512.
- c. Blind client and a dependent relative..... \$1,159.
- d. Blind client, aged or disabled spouse, and a dependent relative..... \$1,534.
- e. Blind client, blind spouse, and a dependent relative..... \$1,556.

ITEM 6. Amend subrule 52.1(3) as follows:

**52.1(3) Residential care.** For periods of eligibility before July 1, 2017, the department will reimburse a recipient in either a privately operated or non-privately operated residential care facility on a flat per diem rate of \$17.86 or on a cost-related reimbursement system with a maximum per diem rate of \$30.11, established consistent with the assistance standards principles provided in rule 441—52.1(249). The department shall establish a cost-related per diem rate for each licensed residential care facility choosing the cost-related reimbursement method of payment according to rule 441—54.3(249).

For periods of eligibility beginning July 1, 2017, and thereafter, payment to a recipient in a privately operated licensed residential care facility shall be based on the maximum per diem rate of \$30.11. Reimbursement for recipients in non-privately operated residential care facilities will be based on the flat per diem rate of \$17.86 or be based on the cost-related reimbursement system with a maximum per diem rate of \$30.11, established consistent with the assistance standards principles provided in rule 441—52.1(249).

~~For periods of eligibility beginning January 1, 2018, and thereafter, payment to a recipient in a privately operated licensed residential care facility shall be based on the maximum per diem rate of \$30.60. Reimbursement for recipients in non-privately operated residential care facilities will be based on the flat per diem rate of \$17.86 or be based on the cost-related reimbursement system with a maximum per diem rate of \$30.60.~~

The facility shall accept the per diem rate established by the department for state supplementary assistance recipients as payment in full from the recipient and make no additional charges to the recipient.

a. All income of a recipient as described in this subrule after the disregards described in this subrule shall be applied to meet the cost of care before payment is made through the state supplementary assistance program.

Income applied to meet the cost of care shall be the income considered available to the resident pursuant to supplemental security income (SSI) policy plus the SSI benefit less the following monthly disregards applied in the order specified:

- (1) No change.
- (2) An allowance of ~~\$99~~ established by the department consistent with rule 441—52.1(249) shall be given to meet personal expenses and Medicaid copayment expenses.
- (3) to (6) No change.
- b. to g. No change.

[Filed Emergency 12/12/18, effective 1/1/19]

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EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 1/2/19.